

1 AN ORDINANCE OF THE PEOPLE OF THE CITY OF SAN BERNARDINO
2 REPLACING SAN BERNARDINO MUNICIPAL CODE CHAPTER 5.05 AND
3 REPEALING SECTION 19.06.026 TO REGULATE THE ESTABLISHMENT
AND OPERATION OF COMMERCIAL MARIJUANA BUSINESSES

4 WHEREAS, Federal Law (codified at 21 U.S.C. Sections 801 et seq.,
5 entitled the “Controlled Substances Act” (“CSA”) makes it unlawful to
6 manufacture, distribute, or possess any controlled substances, including
7 marijuana, which has, as a Schedule I drug under the CSA, a high potential for
abuse and no accepted medical value in treatment; and,

8 WHEREAS, at the General Election held on November 5, 1996, California
9 voters approved Proposition 215 (codified as Health and Safety Code Section
10 11362.5, and titled the “Compassionate Use Act of 1996” (“CUA”)), which
11 provided that “Section 11357, relating to the possession of marijuana, and
12 Section 11358, relating to the cultivation of marijuana, shall not apply to a
13 patient, or to a patient’s primary caregiver, who possesses or cultivates
14 marijuana for the personal medical purposes of the patient upon the written or
15 oral recommendation or approval of a physician;” and,

16 WHEREAS, On January 1, 2004, Senate Bill 420 (codified as Health and
17 Safety Code Sections 11362.7 et seq. and titled the “Medical Marijuana Program”
18 (“MMP”) went into effect and was enacted to clarify the scope of the CUA and to
19 allow cities and counties to adopt and enforce regulations consistent with the
20 CUA and MMP; and,

21 WHEREAS, medical marijuana dispensaries that have operated
22 unpermitted in the City of San Bernardino and elsewhere have caused
23 significant problems, including burglaries and takeover robberies of dispensaries,
24 robberies of customers leaving dispensaries, an increase in crime (especially
25 thefts and robberies) in the vicinity of dispensaries, illegal re-selling of marijuana
26 obtained from dispensaries, physicians issuing apparently fraudulent
27 recommendations for the use of marijuana, dispensary staff selling marijuana to
28 customers with obviously counterfeit patient identification cards, street dealers
attempting to sell marijuana to dispensary customers, dispensary customers
using marijuana and then driving under the influence of marijuana, the sale of
illegal drugs other than marijuana in the dispensaries, sales of marijuana to
minors; and

WHEREAS, after studying various alternatives for the regulation of
marijuana businesses, considering testimony from members of the public, and
reviewing the legal status of marijuana businesses under applicable law, the
Mayor and Common Council find that the regulation and operation of marijuana
businesses is necessary to protect the public health, safety, and welfare; and

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- (b) “Applicant,” for purposes of this Chapter means the following:
 - (1) Owner or owners of a proposed facility, including all persons or entities having ownership interest other than a security interest, lien, or encumbrance on property that will be used by the facility.
 - (2) If the owner is an entity, “owner” includes within the entity each person participating in the direction, control, or management of, or having a financial interest in, the proposed facility.
 - (3) If the applicant is a publicly traded company, “owner” means the chief executive officer or any person or entity with an aggregate ownership interest of 5 percent or more.
- (c) “Cannabis” means the same as “Marijuana.”
- (d) “Commercial Marijuana Activity” includes cultivation, manufacturing, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of marijuana or a marijuana product.
- (e) “Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana.
- (f) “Delivery” means the commercial transfer of marijuana or marijuana products from a Dispensary. “Delivery” also includes the use by a Dispensary of any technology platform owned and controlled by the Dispensary, or independently licensed under State Law, that enables persons to arrange for or facilitate the commercial transfer by a licensed Dispensary of marijuana or marijuana products.
- (g) “Dispensary” means a facility where marijuana, marijuana products, or devices for the use of marijuana or marijuana products are offered, either individually or in any combination, for retail sale.
- (h) “Dispensing” means any activity involving the retail sale of marijuana or marijuana products from a Dispensary.
- (i) “Distribution” means the procurement, sale, and transport of marijuana and marijuana products between entities licensed pursuant to this Chapter.

- 1 (j) “Distributor” means a person licensed under this Chapter to engage
2 in the business of purchasing marijuana from a licensed cultivator,
3 or marijuana products from a licensed manufacturer, for sale to a
4 licensed dispensary.
- 5 (k) “Cultivation site” means a facility where marijuana is planted,
6 grown, harvested, dried, cured, graded, or trimmed, or that does all
7 or any combination of those activities, that holds a valid license
8 pursuant to this Chapter.
- 9 (l) “Edible marijuana product” means manufactured marijuana that is
10 intended to be used, in whole or in part, for human consumption,
11 including, but not limited to, chewing gum.
- 12 (m) “Manufacturer” means a person that conducts the production,
13 preparation, propagation, or compounding of manufactured
14 marijuana, as described in subdivision (o) of this Section, or
15 marijuana products either directly or indirectly or by extraction
16 methods, or independently by means of chemical synthesis or by a
17 combination of extraction and chemical synthesis at a fixed location
18 that packages or repackages marijuana or marijuana products or
19 labels or relabels its container, that holds a valid local license
20 pursuant to this Chapter.
- 21 (n) “Licensee” means a person issued a license under this Chapter to
22 engage in commercial marijuana activity.
- 23 (o) “Manufactured marijuana” means raw marijuana that has
24 undergone a process whereby the raw agricultural product has been
25 transformed into a concentrate, an edible product, or a topical
26 product.
- 27 (p) “Marijuana” means all parts of the plant *Cannabis sativa* Linnaeus,
28 *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the
seeds thereof; the resin, whether crude or purified, extracted from
any part of the plant; and every compound, manufacture, salt,
derivative, mixture, or preparation of the plant, its seeds, or resin.
“Marijuana” also means the separated resin, whether crude or
purified, obtained from marijuana. “Marijuana” also means
marijuana as defined by Section 11018 of the Health and Safety
Code as enacted by Chapter 1407 of the Statutes of 1972.
“Marijuana” does not include the mature stalks of the plant, fiber
produced from the stalks, oil or cake made from the seeds of the
plant, any other compound, manufacture, salt, derivative, mixture,
or preparation of the mature stalks (except the resin extracted

1 therefrom), fiber, oil, or cake, or the sterilized seed of the plant
2 which is incapable of germination. For the purpose of this Chapter,
3 “Marijuana” does not mean “industrial hemp” as defined by Section
4 81000 of the Food and Agricultural Code or Section 11018.5 of the
5 Health and Safety Code.

6 (q) “Marijuana concentrate” means manufactured marijuana that has
7 undergone a process to concentrate the cannabinoid active
8 ingredient, thereby increasing the product's potency.

9 (r) “Manufacturing site” means a location that produces, prepares,
10 propagates, or compounds manufactured marijuana or marijuana
11 products, directly or indirectly, by extraction methods,
12 independently by means of chemical synthesis, or by a combination
13 of extraction and chemical synthesis, and is owned and operated by a
14 licensee for these activities.

15 (s) “Marijuana product” means a product containing marijuana,
16 including, but not limited to, concentrates and extractions, intended
17 to be sold for personal use.

18 (t) “Nursery” means a licensee that produces only clones, immature
19 plants, seeds, and other agricultural products used specifically for
20 the planting, propagation, and cultivation of medical cannabis.

21 (u) “Testing laboratory” means a facility, entity, or site in the City that
22 offers or performs tests of marijuana or marijuana products and that
23 is both of the following:

24 (1) Accredited by an accrediting body that is independent from all
25 other persons involved in the marijuana industry in the state.

26 (2) Registered with the State Department of Public Health.

27 (v) “Transporter” means a person issued a state license by the bureau to
28 transport medical cannabis or medical cannabis products in an
29 amount above a threshold determined by the bureau between
30 facilities that have been issued a state license pursuant to this
31 chapter.

32 (w) “Commercial Marijuana Activity Regulatory License” means an
33 official document granted by the City of San Bernardino that
34 specifically authorizes a person to conduct Commercial Marijuana
35 Activity in the City.

1 (x) "Person" means an individual, firm, partnership, joint venture,
2 association, corporation, limited liability company, estate, trust,
3 business trust, receiver, syndicate, or any other group or
4 combination acting as a unit and includes the plural as well as the
singular number.

5 (y) "Topical cannabis" means a marijuana product intended for external
6 use.

7 (z) "Transport" means the transfer of marijuana or marijuana products
8 from the permitted business location of one licensee to the permitted
9 business location of another licensee, for the purposes of conducting
Commercial Marijuana Activity authorized pursuant to this
Chapter.

10 **5.05.030 Scope of this Article.**

11 This Chapter applies to any person currently engaged in a Commercial
12 Marijuana Activity in the City of San Bernardino, or who engages in a
13 Commercial Marijuana Activity after the effective date of this Chapter. Any
14 person engaging in a Commercial Marijuana Activity in the City of San
15 Bernardino shall operate in conformance with the operating standards set forth
16 in this Chapter to assure that the Commercial Marijuana Activity is in
compliance with State Law and to mitigate the adverse secondary effects from
the Commercial Marijuana Activity.

17 **5.05.040 License Required.**

18 (a) It shall be unlawful for any person to engage in a Commercial
19 Marijuana Activity without a Commercial Marijuana Activity
20 Regulatory License issued by the City of San Bernardino pursuant to
the provisions of this Chapter.

21 (b) Engaging in a Commercial Marijuana Activity without a Commercial
22 Marijuana Activity Regulatory License includes establishing,
23 owning, managing, conducting, leasing to, operating, causing,
24 permitting, aiding, abetting, suffering or concealing the fact of such
an act.

25 (c) Commercial Marijuana Activity Regulatory License types issued by
26 the City of San Bernardino shall include:

27 (1) Type A for persons engaged in Cultivation, operation of a
28 Cultivation site and/or operation of a Nursery;

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- (2) Type B for persons engaged in manufacturing of Marijuana as a Manufacturer and/or operation of a Manufacturing Site;
 - (3) Type C for persons engaged in the operation of a Testing Laboratory;
 - (4) Type D for persons engaged in Dispensing and/or operation of a Dispensary; and
 - (5) Type E for persons engaged in Transportation and/or Distribution.
- (d) A person holding of a Type A license may apply for a Type B license for the same facility.
 - (e) A person holding a Type B license may apply for a Type A license for the same facility.
 - (f) A person holding a Type C license may not apply for any other type of license.
 - (g) A person holding a Type D license may not apply for any other type of license.
 - (h) A person holding a Type E license may not apply for any other type of license.
 - (i) A separate license shall be required for each facility where a Commercial Marijuana Activity is engaged in, even if it is an activity covered by the same License Type and the same Licensee.

5.05.050 Violations and Penalties.

- (a) Any person causing, permitting, aiding, abetting, suffering or concealing a violation of this Chapter shall be guilty of a misdemeanor.
- (b) Each and every violation of this chapter, and each day that a violation continues, shall constitute a separate violation.
- (c) The City Attorney, in his or her sound discretion, may prosecute a violation of this Chapter as an infraction, rather than as a misdemeanor, or reduce or agree to the reduction of a previously filed misdemeanor to an infraction. Any person convicted of an infraction under the provisions of this Chapter shall be punished by

1 a fine not exceeding one hundred dollars for the first violation, a fine
2 not exceeding two hundred dollars for a second violation within one
3 year, and a fine not exceeding five hundred dollars for a third
4 violation within one year. A fourth violation of this Chapter within
one year shall be charged as a misdemeanor and may not be reduced
to an infraction.

5 (d) Any person convicted of a misdemeanor under the provisions of this
6 Chapter shall be punished by a fine of not more than one thousand
7 dollars, or by imprisonment in the city jail or county jail for a period
not exceeding six months, or by both such fine and imprisonment.

8 (e) In addition to the penalties provided by this section, any person in
9 violation of this Chapter shall be subject to a civil fine pursuant to
10 the administrative citation provisions of Chapter 9.92 or civil
11 penalty pursuant to the administrative civil penalties provisions of
Chapter 9.93.

12 (f) In addition to the penalties provided by this section, any violation of
13 this Chapter shall be deemed a public nuisance and may be
14 summarily abated by the City. The City may recover any nuisance
15 abatement costs and/or administrative fines relating to such
violations in accordance with Government Code Sections 38773.1
and 38773.5 in accordance with Chapter 8.30 of this Code.

16 **5.05.060 Nonconforming Use.**

17 Any person that at the time of the passage of this Ordinance has engaged in a
18 Commercial Marijuana Activity that does not comply with the requirements of
19 this Chapter must immediately cease the Commercial Marijuana Activity until
20 such time, if any, when it complies fully with the requirements of this Chapter.
21 No Commercial Marijuana Activity that existed prior to the enactment of this
22 Chapter shall be deemed to be a legally established use under this Code, and
such Commercial Marijuana Activity shall not be entitled to claim legal
nonconforming status.

23 **5.05.070 License Application**

24 (a) Commercial Marijuana Activities are unique and their effect on the
25 surrounding area and City as a whole cannot be determined in
26 advance of a review of the application for a particular proposed
Commercial Marijuana Activity at a particular facility.

27 (b) Any person desiring a Commercial Marijuana Activity Regulatory
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1 License required by this Chapter to engage in a Commercial
2 Marijuana Activity shall, prior to engaging in Commercial
3 Marijuana Activity, complete and file an application to the
4 Community Development Director on a form supplied by the
Community Development Department.

5 (c) The application shall be filed together with a nonrefundable fee as
6 established by resolution of the Mayor and Common Council, to
7 defray the cost of processing the application and investigation
8 required by this Chapter. The application shall contain all of the
9 following:

10 (1) The address of the property where the Commercial Marijuana
11 Activity will occur;

12 (2) A site plan describing the property with fully dimensioned
13 interior and exterior floor plans including electrical,
14 mechanical, plumbing, and disabled access compliance
15 pursuant to Title 24 of the State of California Code of
16 Regulations and the federally mandated Americans with
17 Disabilities Act;

18 (3) Exterior photographs of the entrance(s), exits(s), street
19 frontage(s), parking, front, rear and side(s) of the proposed
20 property;

21 (4) Photographs depicting the entire interior of the proposed
22 property;

23 (5) If the property is being rented or leased or is being purchased
24 under contract, a copy of such lease or contract;

25 (6) If the property is being rented or leased, written proof that the
26 property owner, and landlord if applicable, were given notice
27 that the property will be used to engage in Commercial
28 Marijuana Activity, and that the property owner, and landlord
if applicable, agree(s) to said operations;

(7) The name, home address, personal telephone number, title
and function(s) of each manager, employee, volunteer of the
Applicant etc.;

(8) For each manager, employee, volunteer of the Applicant a
fully legible copy of one valid government issued form of photo
identification, such as State Driver's License or Identification

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Card;

- (9) Identification of the form of the Applicant (individual, corporation, LLC, etc.);
- (10) The name and address of the Applicant’s current agent for Service of Process;
- (11) A copy of the Applicant’s Board of Equalization Seller’s Permit;
- (12) A copy of the General Operating Standards, listed in Section 5.05.130, and for Type D Applicants, a copy of the Dispensary Operating Standards, listed in Section 5.05.140, containing a statement dated and signed by the property owner and the Applicant stating under penalty of perjury, that they read, understand and shall ensure compliance with the aforementioned operating standards;
- (13) A detailed security plan;
- (14) A detailed maintenance plan;
- (15) Evidence that the Applicant has acquired all necessary land use entitlements required under Title 19 of this Code, including any necessary environmental approvals under the California Environmental Quality Act (“CEQA”);
- (16) A statement dated and signed by the property owner and Applicant stating under penalty of perjury that they have sent via certified mail notice of their intent to seek a Commercial Marijuana Activity Regulatory License to all property owners of record owning parcels within 1000 feet of the property where the proposed Commercial Marijuana Activity will occur;
- (17) A statement dated and signed by the property owner and Applicant stating under penalty of perjury that the property where the proposed Commercial Marijuana Activity will occur complies with the location restrictions of Sections 5.05.150 and 5.05.160; and
- (18) Approval from the San Bernardino Police Department that each manager, employee, volunteer of the Applicant listed in (7) of this subdivision has passed a City administered LiveScan background check.

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(d) The Director of Community Development shall have sixty (60) calendar days in which to review the application and investigate the background of the Applicant. The Police Department, Community Development Department, and the San Bernardino County Fire Department shall inspect the proposed facility and shall make separate recommendations to the Community Development Director concerning compliance with the foregoing provisions.

(e) After the sixty (60) day review period, the Director of Community Development may approve and/or modify a Commercial Marijuana Activity Regulatory License in whole or in part, with or without conditions, only if all of the following findings are made:

- (1) The application fee required by this Section has been paid;
- (2) The application conforms in all aspects to the provisions of this Chapter;
- (3) The Applicant has not made a material misrepresentation or omission in the application;
- (4) The Applicant has not had a Commercial Marijuana Activity Regulatory License, or other similar license or permit denied or revoked for cause by the City of San Bernardino or by any other city, county, or city and county in or out of this state within five (5) years prior to the date of the application;
- (5) The proposed Commercial Marijuana Activity would comply with all applicable local and state laws including, but not limited to, health, zoning, fire, and safety requirements;
- (6) The location, size, design, and operating characteristics of the proposed Commercial Marijuana Activity will not create significant noise, traffic, odor, or other conditions or situations that may be objectionable or detrimental to other permitted uses in the vicinity; and
- (7) The proposed Commercial Marijuana Activity will not be adverse to the public interest, health, safety, convenience, or welfare of the City of San Bernardino.

05.05.080 License Expiration.

A Commercial Marijuana Activity License shall automatically expire one year

1 after the license is issued unless renewed in conformity with Section 5.05.090. No
2 license granted herein shall confer any vested right to any person for more than
3 the above-referenced period.

4 **5.05.090 License Renewal.**

5 (a) Applications for the renewal of a Commercial Marijuana Activity
6 Regulatory License shall be filed with the Director of Community
7 Development at least sixty (60) calendar days before the expiration
8 of the current license but no earlier than ninety (90) days before the
9 expiration of the current license. Temporary licenses will not be
10 issued. Any Licensee allowing his or her license to lapse or which
11 license expired during a suspension shall be required to submit a
12 new application and pay the corresponding new application fees.

13 (b) Any Licensee desiring to obtain a renewal of his or her respective
14 license shall file a written application under penalty of perjury on
15 the required form with the Director of Community of Development
16 who shall conduct a review and investigation. The application shall
17 be accompanied by a nonrefundable filing fee established by
18 resolution of the Mayor and Common Council to help defray the cost
19 of the review and investigation required by this Chapter. A Licensee
20 shall be required to update the information contained in his or her
21 original license application and provide any new and/or additional
22 information as may be reasonably required by the Director of
23 Community Development in order to determine whether said permit
24 should be renewed.

25 (c) After the sixty (60) day review period, the Director of Community
26 Development may approve and/or modify the Commercial Marijuana
27 Activity Regulatory License renewal in whole or in part, with or
28 without conditions, only if all of the following findings are made:

- 29 (1) The license renewal fee required by this Section has been paid;
- 30 (2) The license renewal conforms in all aspects to the provisions of
31 this Chapter;
- 32 (3) The Licensee has not made a material misrepresentation or
33 omission in the renewal application;
- 34 (4) The Licensee has not had a Commercial Marijuana Activity
35 Regulatory License, or other similar license or permit denied
36 or revoked for cause by the City of San Bernardino or by any

1 other city, county, or city and county in or out of this state
2 within five (5) years prior to the date of the renewal
3 application;

- 4 (5) The Licensee has complied with all applicable local and state
5 laws including, but not limited to, health, zoning, fire, and
6 safety requirements;
- 7 (6) The location, size, design, and operating characteristics of the
8 Commercial Marijuana Activity has not created significant
9 noise, traffic, odor, or other conditions or situations that are
10 objectionable or detrimental to other permitted uses in the
11 vicinity; and
- 12 (7) The Commercial Marijuana Activity has not been adverse to
13 the public interest, health, safety, convenience, or welfare of
14 the City of San Bernardino.

15 **5.05.100 Revocation of License.**

- 16 (a) The Director of Community Development may revoke or temporarily
17 suspend a Commercial Marijuana Activity Regulatory License if any
18 of the following findings are made:
- 19 (1) The annual regulatory fee required by Section 5.05.170 has
20 not been paid on the date it was due;
- 21 (2) The licensee has failed to substantially comply with each and
22 every provision of this Chapter;
- 23 (3) The licensee has failed to substantially comply with each and
24 every condition of the applicable land use entitlement for the
25 property;
- 26 (4) The licensee has made a material misrepresentation or
27 omission on a license application or application for license
28 renewal;
- (5) The licensee has had a Commercial Marijuana Activity
Regulatory License, or other similar license or permit denied
or revoked for cause by the City of San Bernardino or by any
other city, county, or city and county in or out of this state
within five (5) years prior to the date of the revocation;
- (6) The Licensee has failed to substantially comply with any

1 applicable local and state law including, but not limited to any
2 law relating to health, zoning, fire, and safety requirements;

3 (7) The location, size, design, and operating characteristics of the
4 Commercial Marijuana Activity have created significant noise,
5 traffic, odor, or other conditions or situations that are
6 objectionable or detrimental to other permitted uses in the
7 vicinity; or

8 (8) The Commercial Marijuana Activity has been adverse to the
9 public interest, health, safety, convenience, or welfare of the
10 City of San Bernardino.

11 **5.05.110 Interpretation of the Director.**

12 The Director of Community Development has the authority to make
13 interpretations of this Chapter.

14 **5.05.120 Appeal of Decision or Interpretation.**

15 (a) Any person shall have the right to appeal the Director's decision to
16 grant, deny, or revoke a Commercial Marijuana Activity Regulatory
17 License to the Hearing Officer of the City appointed in conformity
18 with Section 9.93.090 of the San Bernardino Municipal Code.

19 (1) The appeal shall be made to the Office of the City Clerk within
20 fifteen (15) days of the Director's decision.

21 (2) The Hearing Officer shall hold a hearing within sixty (60) days
22 of the date the appeal is filed with the Office of the City Clerk.

23 (3) The Hearing Officer shall render a decision within ten (10)
24 days of the date the appeal is filed with the Office of the City
25 Clerk.

26 (4) The Hearing Officer shall review the Director's decision under
27 the abuse of discretion standard. The Hearing Officer shall
28 only reverse the decision of the Director if the Hearing Officer
finds that the Director's decision was arbitrary and capricious
and totally lacking in evidentiary support.

(b) Any person shall have the right to appeal any interpretation of this
Chapter made by the Director.

(1) The appeal shall be made to the Office of the City Clerk within

1 fifteen (15) days of the Director’s interpretation.

2 (2) The Hearing Officer shall hold a hearing within sixty (60) days
3 of the date the appeal is filed with the Office of the City Clerk.

4 (3) The Hearing Officer shall give deference to the Director’s
5 interpretation on appeal.

6 **5.05.130 General Operating Standards.**

7 The following operating standards shall be applicable to all Licensees.

8 (a) All Commercial Marijuana Activities must occur within a building,
9 that is, indoors within a fully enclosed structure that includes solid
10 walls, and a ceiling, roof, or top.

11 (b) Any facility where the Commercial Marijuana Activity occurs shall
12 have lighting adequate to illuminate the exterior of the building, all
13 entrances and exits to the building, and all interior portions of the
14 building where Marijuana is located. The lighting shall be sufficient
15 to readily identify any individual committing a crime anywhere at
16 the location with the location’s security camera system.

17 (c) Each Licensee, and all officers, managers, employees, volunteers and
18 agents of the Licensee shall complete a City-administered criminal
19 background check using LiveScan prior to engaging in a Commercial
20 Marijuana Activity. No Licensee, or any officer, manager, employee,
21 volunteer or agent of Licensee shall have been convicted of, or plead
22 guilty/no-contest to a felony, misdemeanor drug or weapon charge, or
23 crime of moral turpitude within the previous five years.

24 (d) The facility, interior and exterior, shall be monitored at all times by
25 on-site or internet-based closed-circuit television. The camera and
26 recording system must be of adequate quality, color rendition and
27 resolution to allow the ready identification of any individual
28 committing a crime anywhere on or adjacent to the location. The
 recordings shall be maintained for a period of not less than ninety
 days and made available to the Police Department upon request. If
 the recordings are not voluntarily made available, the Police
 Department may obtain a warrant or other court order.

 (e) At all times Marijuana is present, the facility shall have at least one
 security guard on duty that is licensed, possesses a valid
 Department of Consumer Affairs “security guard card,” and has a

1 valid San Bernardino Business Registration Certificate.

- 2 (f) The facility shall have a centrally-monitored fire and burglar alarm
3 system.
- 4 (g) The facility shall contain a fire-proof safe.
- 5 (h) No recommendations from a doctor for medical marijuana shall be
6 issued at the facility.
- 7 (i) No sales of alcohol or tobacco may take place at the facility.
- 8 (j) No consumption of alcohol, tobacco, or Marijuana may take place at
9 the facility.
- 10 (k) The facility shall have sufficient odor absorbing ventilation and
11 exhaust system such that odor generated from the location where
12 the Commercial Marijuana Activity occurs is not detected outside
13 the property, anywhere on adjacent property or public rights-of-way,
14 or within any other unit located within the same building.
- 15 (l) No one under 21 years of age shall be permitted to enter the facility.
- 16 (m) The Licensee shall provide the name and phone number of an on-site
17 staff person to the Police Department and Community Development
18 Department for notification if there are operational problems at the
19 facility.
- 20 (n) The facility shall have posted in a conspicuous place near the
21 entrance a sign directing all complaints to a telephone number
22 provided by the City. The telephone number will be monitored by the
23 City to receive complaints regarding Licensee. The City may submit
24 complaints to the Licensee. The Licensee shall respond within
25 twenty-four (24) hours to the City with how the Licensee has or will
26 respond to the complaint.
- 27 (o) The manufacturing of Marijuana Concentrate using volatile solvents
28 is prohibited.

24 **5.05.140 Dispensary Operating Standards.**

25 In addition to the General Operating Standards stated above in Section 5.05.130,
26 Licensees holding a Type D License to engage in Dispensing or operate a
27 Dispensary shall comply with the following standards:

- 28 (a) If food or edible marijuana products are distributed, the Licensee

1 shall comply which all relevant State and Local Laws pertaining to
2 the preparation, distribution and sale of food.

3 (b) The Licensee shall have a second security guard to monitor the
4 immediate vicinity of the Dispensary to assure that patrons
5 immediately leave the Dispensary and do not consume Marijuana in
6 the vicinity of the Dispensary.

6 (c) Exterior signage shall be limited to one wall sign not to exceed ten
7 square feet in area and may not be externally or internally
8 illuminated. Interior signage or advertising may not be visible from
9 the exterior.

9 (d) Hours of Operation shall be limited to: Monday – Saturday 10 a.m. –
10 8 p.m. and Sunday 11 a.m. – 7 p.m.

11 (e) A Dispensary shall notify patrons of the following both verbally and
12 through posting of a sign in a conspicuous location:

13 (1) Use of medical marijuana shall be limited to the patient
14 identified on the doctor's recommendation. Secondary sale,
15 barter or distribution of medical marijuana is a crime and can
16 lead to arrest.

16 (2) That loitering on and around the Dispensary is prohibited by
17 California Penal Code § 647(e) and that patrons must
18 immediately leave the site and not consume Marijuana in the
19 vicinity of the Dispensary, on the property or in the parking
20 lot.

19 (3) Forgery of medical documents is a felony crime.

20 (4) A warning that patrons may be subject to prosecution under
21 federal marijuana laws.

22 (5) That the use of marijuana may impair a person's ability to
23 drive a motor vehicle or operate machinery.

24 (6) That no person under 21 years of age is permitted within the
25 Dispensary.

26 (f) A Dispensary shall not provide marijuana to any individual in an
27 amount not consistent with personal use.

28 (g) A Dispensary shall not store more than \$500.00 in cash reserves

1 overnight at the facility and shall make at least one daily bank drop
2 that includes all cash collected on that business day.

3 (h) The Delivery of Marijuana or Marijuana Products is prohibited.

4 **5.05.150 General Location Restrictions.**

5 In addition to any zoning requirements under Title 19 of this Code, the following
6 location restrictions apply to all Licensees.

7 (a) A person may only engage in Commercial Marijuana Activity in the
8 following zones: OIP, IL, IH, and IE.

9 (b) No person may engage in Commercial Marijuana Activity in the
10 following zones: RE, RL, RS, RU, RM, RMH, RH, CO, CG-1, CG-2,
11 CG-3, CR-1, CR-2, CR-3, CR-4, CH, PCR, PF, PFC, PP, or SP.

12 (c) No person may engage in Commercial Marijuana Activity within 600
13 feet of the following:

14 (1) School;

15 (2) Park;

16 (3) Library; or

17 (4) Recreation Center.

18 (d) No person may engage in Commercial Marijuana Activity within 100
19 feet of any property zoned RE, RL, RS, RU, RM, RMH, or RH.

20 (e) No person may engage in Commercial Marijuana Activity within 100
21 feet of any Religious Facility.

22 **5.05.160 Dispensary Location Restrictions**

23 (a) In addition to the location restrictions found in Section 5.05.150, no
24 person may engage in Dispensing or operate a Dispensary within
25 1000 feet of any of the following:

26 (1) School;

27 (2) Park;

28 (3) Library;

- (4) Recreation Center;
- (5) Religious Facility; or
- (6) Any other licensed Dispensary.

(b) No person may operate a Dispensary within 300 feet of any property zoned RE, RL, RS, RU, RM, RMH, or RH.

(c) All distances specified in this Chapter shall be measured in a straight line, without regard to intervening structures, from the nearest point of the property line to the nearest point of the property line of those uses described herein.

5.05.170 Fees.

In addition to the application fees established by this Chapter, the Mayor and Common Council may pass by resolution a regulatory fee for each license type to defray the reasonable regulatory costs to the City of San Bernardino for performing investigations, inspections, audits, enforcing orders, and the administrative enforcement and adjudication contemplated by this Chapter.

5.05.180 Amendments.

Pursuant to Section 9217 of the California Elections Code, the Mayor and Common Council have reserved the right and authority to amend or repeal this Chapter without any restrictions.

SECTION 4. MAYOR AND COMMON COUNCIL TO MAKE FUTURE AMENDMENTS TO VOTER APPROVED ORDINANCE.

This is a Mayor and Common Council sponsored initiative ordinance which traditionally would only be subject to amendment by the voters of the City of San Bernardino. However, pursuant to Section 9217 of the California Elections Code the Mayor and Common Council reserve the right and authority to amend or repeal the ordinance without any restrictions.

SECTION 5. COMPETING MEASURES.

In the event that this measure and another measure or measures relating to the regulation of marijuana in the City of San Bernardino appear on the same ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure shall receive a greater number

1 of affirmative votes required to pass than the other measure or measures, the
2 provisions of this measure shall prevail in their entirety over the competing
3 measure or measures, and the competing measure or measures shall be null and
4 void.

4 **SECTION 6. EFFECTIVE DATE.**

5 After its adoption by the voters, this ordinance shall be in full force and effect ten
6 (10) days after the vote is declared by the legislative body, pursuant to the
7 provisions of Elections Code sections 9217 and 15400 and as provided by law.

8 **SECTION 8. SEVERABILITY.**

9 If any provision of this Ordinance or the application thereof to any person or
10 circumstance is held invalid, such invalidity shall not affect other provisions or
11 applications of the Ordinance which can be given effect without the invalid
12 provision or application, and to this end the provisions of this ordinance are
13 severable. The People of the City of San Bernardino hereby declare that they
14 would have adopted this Ordinance irrespective of the invalidity of any particular
15 portion thereof.

14 **SECTION 9. CEQA.**

15 The People of the City of San Bernardino hereby find and determine that this
16 Ordinance is not subject to environmental review under the California
17 Environmental Quality Act (CEQA) pursuant to Title 14 of the California Code of
18 Regulations Section 15060(c)(2) (the activity will not result in a direct or
19 reasonably foreseeable indirect physical change in the environment) and Section
20 15060(c)(3) (the activity is not a project as defined in Section 15378) because it
21 has no potential for resulting in physical change of the environment, directly or
22 indirectly.